

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FREE STREAM MEDIA CORP.,
Plaintiff,

v.

ALPHONSO INC.,
Defendant.

Case No. 17-cv-02107-RS

FREE STREAM MEDIA CORP. D/B/A
SAMBA TV,
Plaintiff,

v.

ALPHONSO INC.,
Defendant.

Case No. 17-cv-02108-RS

ORDER RE PENDING MOTIONS

1. After these two cases were transferred to this District, the then-assigned magistrate judge presiding over the lower-numbered action entered an order deeming them related and providing that the lower numbered matter would be “the primary case going forward.” While the effect of that order would appear indistinguishable from that of a consolidation order, plaintiff

1 now seeks formal consolidation under Rule 42(a) of Federal Rules of Civil Procedure.¹ That
2 motion is unopposed and will be granted, even if not strictly necessary. For convenience,
3 henceforth any documents filed in Case No. 17-cv-02107-RS will automatically be deemed to
4 have been also been filed in Case No. 17-cv-02108-RS, and the higher-numbered case will be
5 administratively closed.

6 2. Good cause appearing, the unopposed motion for leave to amend is granted, without
7 prejudice to any arguments any defendant may seek to present by motion to dismiss. In view of
8 the consolidation and for clarity, plaintiff should prepare and file a single complaint, rather than
9 proceeding with two complaints under the 17-cv-02107 case number, or with a separate complaint
10 under each case number.

11 3. As reflected in the recent order denying a motion to seal portions of the Case
12 Management Statements filed in these actions, the designations of material to be filed under seal in
13 this proceeding has been grossly overbroad. The sealing motion submitted in connection with the
14 motion for leave to amend involves largely the same material as was at issue in the case
15 management statements. Additionally, no declaration was filed by the designating party to
16 support the sealing motion. See Civil Local Rule 79-5(e)(1). Accordingly, the motion to seal
17 (Dkt. No. 143) will be denied at this juncture. In the event a party contends any specific exhibits
18 or portions thereof contain genuinely sensitive information that might qualify for sealing, the
19 parties shall promptly meet and confer and submit a *narrowly tailored* proposed sealing order
20 providing only for the “minimum redactions necessary to protect sealable information.” Rule 79-5
21 Commentary.

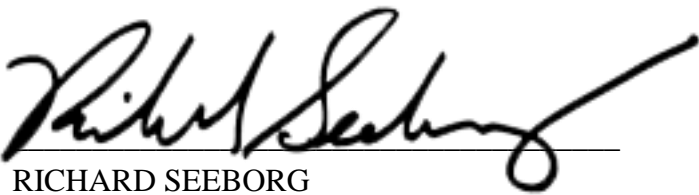
22 Going forward, the parties shall exercise care and restraint in designating material as
23 confidential under the protective order. In the event a party wishes to file material previously
24 designated as confidential, the parties are strongly encouraged to meet and confer in advance, if
25

26 ¹ Plaintiff’s motion also invokes Civil Local Rule 3-12, which sets out the procedure for relating
27 cases. As noted, that relief was previously granted.

practical, to determine which, if any, of the material the designating party continues to maintain must be filed under seal. Whenever a sealing motion is filed on the basis of designation by another party, the designating party shall promptly review the material and withdraw any designations that do not appear warranted, and comply with its obligation under Rule 79-5(e)(1) with respect to any other of the material.

IT IS SO ORDERED.

Dated: July 5, 2017



RICHARD SEEBORG
United States District Judge

United States District Court
Northern District of California